

Appl. No. 10/666,192

Amdt. dated June 15, 2006

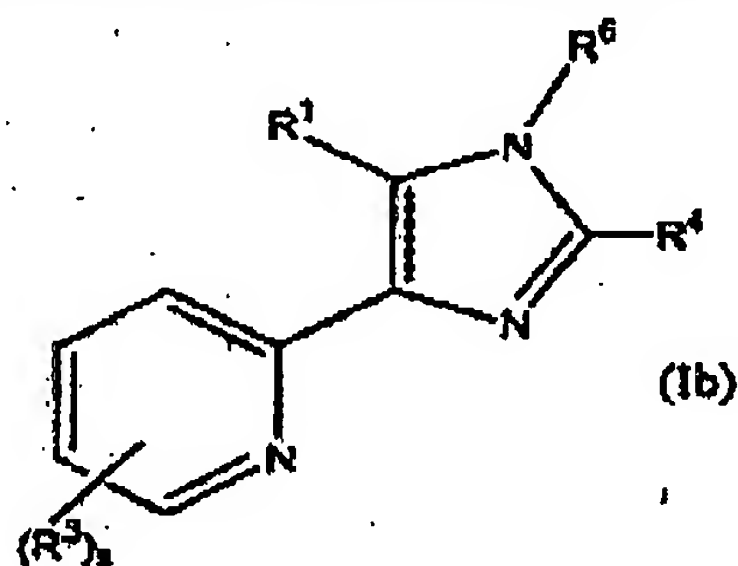
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### Remarks

Claims 1-12 were pending in the above-identified application prior to entry of this Amendment. Claims 1 has been deleted and new claim 14 has been added which incorporates all of the limitations of claims 1 and 2. Claim 9 has been amended to remove subject matter directed to non-elected inventions, and claim 13-15 are newly submitted. Claim 2 has been cancelled. Claims 3-8, 11 and 12 have been withdrawn as being drawn to a non-elected invention. Applicants reserve the right to pursue the non-elected subject matter in one or more divisional applications. Accordingly, after entry of this Amendment, claims 3-15 are pending in this case. The changes to the claims do not constitute the addition of new matter and full support for the changes may be found in the specification and claims as originally filed. Specifically, support for claim 13 can be found at Examples 1-6, 9-12, 18-22, and 24-26.

### Double Patenting Rejection

A Provisional Rejection under the judicially created doctrine of obviousness-type double patenting over claims 1-14 of copending patent application Ser. No. 10/783,251 (" '251 application") has been issued. Applicants respectfully submit the claimed subject matter of the instant application is not obvious in light of the '251 application. The '251 application neither discloses nor suggests the claimed subject matter of the instant application. The '251 application discloses a formula having a core structure (Ib)



However, the '251 application requires that

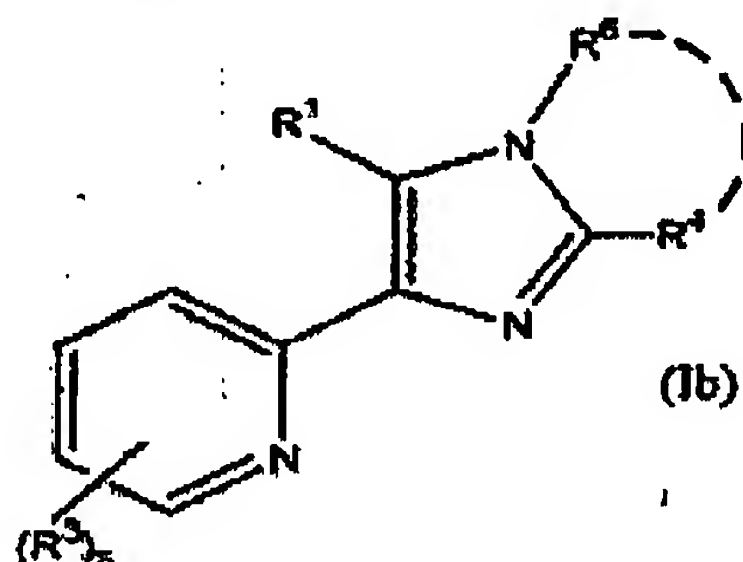
$R^4$  and  $R^6$  taken together with the atoms to which they are attached form a core fused heteroaromatic.

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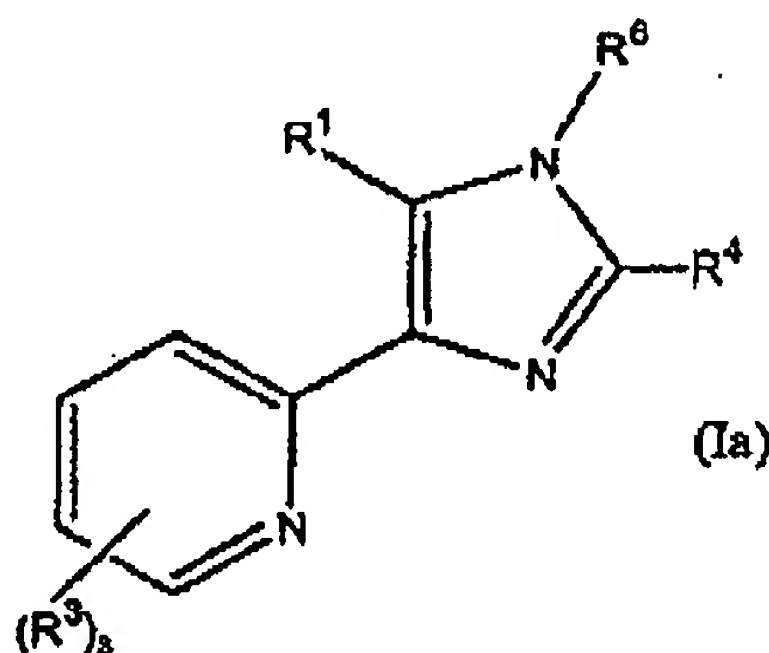
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Therefore, formula (Ib) of the '251 application is more accurately drawn as



In the instant application, the core structure (formula (Ia)) is



In contrast to the '251 application,  $R^4$  and  $R^6$  of the instant application do not form a fused heteroaromatic ring.  $R^4$  and  $R^6$  in the instant application are not taken together with the atoms to which they are attached to form part of a ring system.

Therefore, the conflicting claims are patentably distinct from each other. In addition, the disclosure in the '251 application of a compound or compounds wherein a core (Ib) is fused to a heteroaromatic moiety does not disclose or suggest the substituents for  $R^4$  and  $R^6$  in the instant invention.

Furthermore, a reference anticipating one set of claims will not of necessity render the other obvious.

Thus, Applicants assert that the provisional obvious-type double patenting rejection is improper and respectfully request reconsideration and withdrawal of the obvious-type double patenting rejection.

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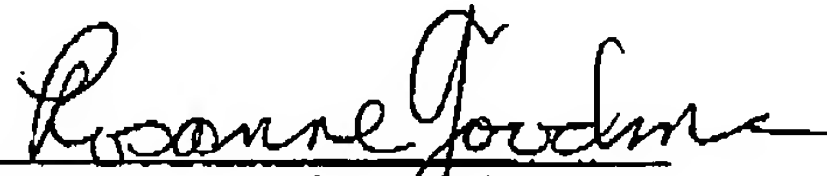
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CONCLUSION:

In light of the amendments and remarks made herein, Applicants respectfully request reconsideration and withdrawal of all rejections and objections and request allowance of all the pending claims. Notification to this effect is earnestly solicited. The Examiner is encouraged to contact the Applicants' undersigned attorney to discuss this matter if any questions should arise upon further examination of the pending claims.

Respectfully submitted,

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